

# Exhibit C

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

JUANA CRUZ, OFELIA )  
BENAVIDES, JOSE ELIAS N.G, )  
GABRIELA VELAZQUEZ, )  
RICARDO GONZALEZ, HELESIO )  
CRUZ, ANGELICA CHAVEZ, )  
CONCEPCION PEREZ, OLGA )  
PEREZ, MAVRIGO SAENZ, )  
JORGE MAOLEON, HECTOR )  
SANCHEZ, HECTOR GONZALEZ, )  
YESSY PEREZ-MARTINEZ, )  
MARIA DE LOURDES CRUZ, )  
RESENDO LIEVANOS, )  
ELIZABETH LARA, LUIS )  
ALBERTO ZUNIGIA-CASTILLO, )  
MIGUEL CABALLERO SANCHEZ, )  
GUILLERMO DE LA )  
CRUZ-MENDOZA, CARLOS )  
DANIEL LOPEZ, GILDA RIVAS, )  
ARMANDO MORALES DE LLANO, )  
LAZARO GARCIA, MARIA DE )  
JESUS MEDINA, RICARDO )  
ESQUIVEL, RAFAEL SANCHEZ, )  
GUILLERMO RUIZ, ROSA )  
QUINTANILLA, )  
)  
PLAINTIFFS, )  
)  
VS. )  
)  
DELGAR FOODS LLC A/K/A )  
DELIA'S TAMALES, )  
)  
DEFENDANT. )

CIVIL ACTION  
NO. 7:23-CV-00343  
  
JURY DEMANDED

\*\*\*\*\*

ORAL DEPOSITION OF  
ELIAS GUTIERREZ  
June 28, 2024

\*\*\*\*\*

1 ORAL DEPOSITION of ELIAS GUTIERREZ, produced  
2 as a witness at the instance of the Defendant, and duly  
3 sworn, was taken in the above-styled and numbered cause  
4 on the 28th day of June, 2024, from 9:01 a.m. to  
5 10:19 a.m. before Anica Diaz, CSR, RPR, CRR, in and for  
6 the State of Texas, reported by machine shorthand, at  
7 the Law Offices of Ricardo Gonzalez, 124 South 12th  
8 Avenue, Edinburg, Texas, pursuant to the Federal Rules  
9 of Civil Procedure and the provisions stated on the  
10 record or attached.

A P P E A R A N C E S

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ALSO PRESENT:

Mr. Luis Gonzalez, Interpreter  
Mr. Rosendo Lievanos, Plaintiff  
Mr. Luis Zuniga, Plaintiff  
Ms. Olga Perez, Plaintiff

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# I N D E X

PAGE

Appearances..... 03

Exhibits..... 04

ELIAS GUTIERREZ

Examination by Mr. Quezada..... 05

Changes and Signature..... 41

Reporter's Certificate..... 43

# E X H I B I T S

PAGE

Defendant's Exhibit No. 1

Questionnaire Filled out by  
Elias Gutierrez..... 30

1 A. Yes.

2 Q. Okay. But as far as what you'll be asking the  
3 court or the jury to award you, do you have any idea  
4 what that might be?

5 A. I have no clue.

6 Q. Do you know, sir, whether -- do you know Delia  
7 Garza or Delia Ludin.

8 A. Yes.

9 Q. Do you know whether she set your -- do you know  
10 whether she made the decision to hire you?

11 A. No. I don't know if she hired me.

12 Q. Do you know if she made the decision about your  
13 hourly rate, or bonus, or benefits?

14 A. We do know she's the one that decides the  
15 bonuses.

16 Q. And how do you know that?

17 A. Because she would turn into our supervisor, and  
18 then she would make a gathering, a feast for us, and she  
19 was there.

20 Q. But do you know if she actually sat down and  
21 looked at a list of employees and said, this employee  
22 gets \$500, this employee gets \$1,000, anything like  
23 that?

24 A. No, not that.

25 Q. Do you know if she made the decision to

1 terminate your employment?

2 A. No.

3 Q. Do you know if she made the decision -- well,  
4 you -- you testified earlier that you received a pay  
5 raise, correct?

6 A. Yes. It was increased, but I do not know if  
7 she was the one that took that decision to increase my  
8 pay raise.

9 Q. And, to your knowledge, you don't know whether  
10 she made any of those decisions that we've discussed as  
11 to any employee, do you?

12 A. No, I wouldn't be able to tell you.

13 Q. And you never saw Ms. Delia at the restaurant  
14 there supervising the day-to-day work, and the  
15 day-to-day production, true?

16 A. Yes, I would see her.

17 Q. You would see her there telling employees how  
18 to run the business and how to cook?

19 A. No, she'd go. Not every day, but she'd go  
20 every week to the business on 10th Street and  
21 just -- she would just be seeing how everything was  
22 running.

23 Q. So she'd just be there observing?

24 A. Yes.

25 Q. Mr. Gutierrez, are you on the group chat that

1 account?

2 A. No.

3 Q. What would you do with it?

4 A. I would cash it.

5 Q. And sitting here today, do you have a bank  
6 account?

7 A. No.

8 Q. Do you have any receipts or records from the  
9 cashing?

10 A. I mean, I have my pay stubs I keep that when I  
11 cash the check.

12 Q. And where do you keep the pay stubs?

13 A. They're all stored together at my house.

14 Q. Have you provided those to your attorneys?

15 A. No.

16 Q. And why is that?

17 A. They haven't asked for them.

18 Q. An allegation in this case is that Delia's was  
19 keeping two sets of books. Do you -- are you aware of  
20 that allegation?

21 THE INTERPRETER: May the question be  
22 repeated please?

23 MR. QUEZADA: Sure.

24 Q. (By Mr. Quezada) An allegation in this case is  
25 that Delia's was keeping two sets of books. Are you



1      aware of that allegation?

2           A.    I don't know if there was two different  
3      bookkeeping.

4           Q.    You received a bonus from Delia's?

5           A.    Yes.

6           Q.    And about how much would that bonus be?

7           A.    \$500 every year.

8           Q.    And when would you get that?

9           A.    January. I don't remember the day.

10          Q.    And did you get that every year that you worked  
11      at Delia's?

12          A.    Yes.

13          Q.    For how long were you unemployed after your  
14      employment with Delia's was terminated?

15          A.    Two months.

16          Q.    And during those two months did you receive any  
17      monies of any kind from any source?

18          A.    No.

19          Q.    So you are currently employed?

20          A.    I work for a freight forwarding company.

21          Q.    Freight forwarding?

22          A.    Yes.

23          Q.    And what's the name of the company?

24          A.    AB.

25          Q.    The letter A, the letter B?